

APPLICANT(S): OWEN, John Robert et al.
SERIAL NO.: 10/541,511
FILED: March 2, 2006
Page 5

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1, 5, and 6 are currently pending in the application and have been rejected.

Claim 1 has been amended herein, and new claim 7 has been added herein. Applicants state that the amendments to the claims and the new claim add no new matter.

Remarks to the Title

In the Office Action the Examiner objected to the Title, stating that it is not descriptive of the invention being claimed. In response, Applicants have amended the title to clarify that an electrochemical cell is being claimed.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 1, 5 and 6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that claim 1 is unclear as to the material of use in making the first electrode.

The Examiner has issue with the definition of the first electrode and the sample to be tested, stating that it unclear whether the sample is part of the electrode itself. In response, Applicants have herein amended claim 1 to replace "a first electrode comprising" by "a first electrode bearing", so as to thereby clarify the relationship between the electrode and the samples.

The Examiner states that the functionality and use of the claimed testing cell are indefinite and requests that Applicants define more precisely how the cell achieves its functions of testing electrocatalytic behavior. The Examiner suggests that the wording of

APPLICANT(S): OWEN, John Robert et al.
SERIAL NO.: 10/541,511
FILED: March 2, 2006
Page 6

claim 1 should convey that the cell detects “the changes in the electrochromic material with changing electrolytic behavior” and requests that Applicants make clear the result which is taken from the cell other than a color change and what characteristic is even measured regarding the electrocatalyst behavior.

In response, Applicants have amended independent claim 1 to add “wherein said reaction changes the total charge passing through the counter-electrode bearing the electrochromic material, and the electrochromic material by said changes in reflection, refraction or absorption of electromagnetic energy in respect of each region is indicative of the respective electrocatalytic activities of each sample of material on said reaction”. Support for this amendment can be found in the specification as filed, e.g., at page 4, line 19 – page 7, line 11.

Accordingly, independent claim 1 has been amended to overcome the deficiencies noted by the Examiner. Applicants respectfully assert that these amendments render independent claim 1, plus dependent claims 5 and 6, proper under 35 U.S.C. § 112, second paragraph, and request that the rejection be withdrawn.

Applicants have also added new claim 7, which is dependent from amended independent claim 1 and specifies that the first electrode comprises an electrically conductive substrate, and the sample materials are supported on the electrically conductive substrate. Support for this claim can be found in the specification as filed, e.g., at page 7, lines 18-21.

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected Claims 1, 5 and 6 under 35 U.S.C. § 102(b) as being anticipated by Wachsman et al. (U.S. Patent Appl. Publ. No. 2003/066519). Applicants traverse this rejection in light of the remarks that follow.

Wachsman discloses an electrochemical cell for measuring gas concentrations, comprising first and second (semiconductor) electrodes. The (semiconductor) materials are selected so as to undergo a change in resistivity or conductivity in response to contact with the gas component to be measured. The electrical signal generated by the cell is detected by a suitable detector that measures voltage or current.

APPLICANT(S): OWEN, John Robert et al.
SERIAL NO.: 10/541,511
FILED: March 2, 2006
Page 7

The Examiner alleges that the features of claim 1 are still disclosed by Wachsmann et al., because a platinum metal layer can be regarded as an electrode comprising a plurality of regions each comprising a sample of material. In this regard, Applicants contend that the samples of material are a variety of samples that are materially different from one another.

The Examiner also previously acknowledged that Wachsmann et al. fails to teach a plurality of regions for testing the sampled, to explicitly teach the testing of the electrocatalyst in the gas sensor and for the electrocatalyst to be present in both the electrolyte and electrode during testing. Moreover, Applicants point out that Wachsmann et al. does not teach (a) using the electrochemical cell to test an electrode material for its catalytic activity [instead, the cell is used to determine gas concentrations], or (b) using a counter-electrode bearing an electrochromic material.

Thus, Wachsmann et al. does not teach or describe Applicants' invention. Accordingly, Applicants respectfully assert that amended independent claim 1 is allowable. Claims 5 and 6 depend directly from amended independent claim 1, and therefore include all of its limitations. Therefore, Applicants respectfully assert that claims 5 and 6 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to amended independent claim 1 and to claims 5 and 6 dependent thereon.

Conclusion

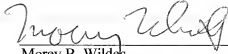
In view of the foregoing amendments and remarks, pending claims 1, 5, and 6 are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any questions or comments as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

APPLICANT(S): OWEN, John Robert et al.
SERIAL NO.: 10/541,511
FILED: March 2, 2006
Page 8

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Morey B. Wildes', is written over a horizontal line.

Morey B. Wildes
Attorney for Applicant(s)
Registration No. 36,968

Dated: July 5, 2011

Pearl Cohen Zedek Latzer LLP.
1500 Broadway, 12th Floor
New York, New York 10036
Tel: (646) 878-0800
Fax: (646) 878-0801